

**MEMORANDUM**

March 7, 2023

TO: Members of the Committee on Energy and Commerce

FROM: Committee Majority Staff

RE: Full Committee Markup

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**I. INTRODUCTION**

On Thursday, March 9 at 10:00am, the Committee on Energy and Commerce will meet in open markup session in 2123 Rayburn House Office Building to consider the following:

- H.R. 750, Chinese-owned Applications Using The Information of Our Nation (CAUTION) Act of 2023
- H.R. 784, Internet Application Integrity and Disclosure (Internet Application I.D.) Act
- H.R. 742, Telling Everyone the Location of data Leaving the U.S. (TELL) Act
- H.R. 813, Global Investment in American Jobs Act of 2023
- H.R. 752, Securing Semiconductor Supply Chains Act of 2023
- H.R. 1068, Securing America's Critical Minerals Supply Act
- H.R. 1121, Protecting American Energy Production Act
- H.R. 1085, Researching Efficient Federal Improvements for Necessary Energy Refining (REFINER) Act
- H.R. 1058, Promoting Cross-border Energy Infrastructure Act
- H.Con.Res. 14, a resolution expressing disapproval of the revocation by President Biden of the Presidential permit for the Keystone XL pipeline.
- H.Con.Res. 17, a resolution expressing the sense of Congress that the Federal Government should not impose any restrictions on the export of crude oil or other petroleum products.
- H.R. 1130, Unlocking Our Domestic LNG Potential Act
- H.R. 1115, Promoting Interagency Coordination for Review of Natural Gas Pipelines Act
- H.R. 1070, a bill to amend the Solid Waste Disposal Act (SWDA) to treat the owner or operator of a critical energy resource facility as having been issued an interim permit for the treatment, storage, and disposal, of hazardous waste, and for other purposes.
- H.R. 1131, a bill to require the Administrator of the Environmental Protection Agency to authorize the use of flexible air permitting with respect to certain critical energy resource facilities, and for other purposes.
- H.R. 1140, a bill to authorize the Administrator of the Environmental Protection Agency to waive application of certain requirements with respect to processing and refining of a critical energy resource at a critical energy resource facility, and for other purposes.
- H.R. 1158, the Elimination of Future Technology Delays Act -
- H.R. 1141, Natural Gas Tax Repeal Act

- H.R. 1023, a bill to repeal section 134 of the Clean Air Act, relating to the greenhouse gas reduction fund.

H.R. 1155, Keeping America's Refineries Act

In keeping with Chair Rodgers' announced policy, Members must submit any amendments they may have two hours before they are offered during this markup. Members may submit amendments by email to [EandCdocs@mail.house.gov](mailto:EandCdocs@mail.house.gov). Any information with respect to an amendment's parliamentary standing (e.g., its germaneness) should be submitted at this time.

## II. INNOVATION, DATA, AND COMMERCE LEGISLATION

### A. H.R. 750, Chinese-owned Applications Using The Information of Our Nation (CAUTION) Act of 2023

The legislation would require any person who sells or distributes a mobile application that is banned on federal government devices to disclose that fact in a clear and conspicuous manner, to any individual who downloads, updates, or otherwise uses the application. The required disclosure would be provided to the individual before the download or update of such application. These requirements would be enforced by the Federal Trade Commission (FTC). (Reps. Cammack and Soto introduced H.R. 750.)

On Tuesday, February 7, the Subcommittee on Innovation, Data, and Commerce forwarded the bill to the full committee, as amended, by a voice vote. The Subcommittee adopted an amendment in the nature of a substitute offered by Rep. Cammack.

### B. H.R. 784, Internet Application Integrity and Disclosure (Internet Application I.D.) Act

The legislation would require any person who maintains websites or that sells or distributes a mobile application that is owned, wholly or partially by the Chinese Communist party (CCP) or by a non-state-owned entity located in China, to disclose conspicuously to the user that such website or seller is located in China or owned by the CCP. The legislation would make it unlawful for any person knowingly to provide false information required under the disclosure and would provide enforcement authority for the FTC. (Reps. Fulcher and Pappas introduced H.R. 784.)

On Tuesday, February 7, the Subcommittee on Innovation, Data, and Commerce forwarded the bill to the full committee, without amendment, by a voice vote.

### C. H.R. 742, Telling Everyone the Location of data Leaving the U.S. (TELL) Act

The legislation would require that any person who maintains an internet website or that sells or distributes an online application that stores and maintains information collected from such website or application in China, disclose to any individual who downloads or otherwise uses such application, in a clear and conspicuous manner that such information is stored and maintained in China and whether the CCP or a Chinese state-owned entity has access to such information. The legislation would make it unlawful for any person

knowingly to provide false information required under the disclosure and would provide enforcement authority for the FTC. (Reps. Duncan, Kaptur, and Perry introduced H.R. 742.)

On Tuesday, February 7, the Subcommittee on Innovation, Data, and Commerce forwarded the bill to the full committee, without amendment, by a voice vote.

**D. H.R. 813, Global Investment in American Jobs Act of 2023**

The legislation would direct the Secretary of Commerce and the Comptroller General of the Government Accountability Office to conduct an interagency review and report on ways to increase global competitiveness of the U.S. in attracting foreign direct investment (FDI) from responsible private-sector entities based in trusted countries. The review conducted shall include but not be limited to the current economic impact of FDI in the United States, trends in global cross-border investment, Federal Government policies that are closely linked to the ability of the United States to attract and retain FDI, barriers to the U.S. competitiveness to attract FDI, and ongoing U.S. efforts to attract FDI. The bill would also require the Secretary of Commerce and the Comptroller General to report to Congress recommendations for increasing global competitiveness of the United States in attracting FDI. (Rep. Pence introduced H.R. 813.)

On Tuesday, February 7, the Subcommittee on Innovation, Data, and Commerce forwarded the bill to the full committee, without amendment, by a voice vote.

**E. H.R. 752, Securing Semiconductor Supply Chains Act of 2023**

The legislation would require the Executive Director of SelectUSA to solicit comments from State-level economic development organizations to review efforts to support increased FDI in any segment of the semiconductor-related production and current barriers and challenges to such investment. The legislation would also require the Executive Director to develop recommendations for how SelectUSA can increase such investment and work with allied countries to ensure foreign adversaries do not benefit from U.S. efforts to increase investment. The legislation would also require the Executive Director in coordination with the Federal interagency Investment Working Group to submit to Congress a report on the review and recommendations. The legislation would not authorize additional funds for purposes of carrying out the Act. (Reps. Eshoo and Pence introduced H.R. 752.)

On Tuesday, February 7, the Subcommittee on Innovation, Data, and Commerce forwarded the bill to the full committee, without amendment, by a roll call vote of 19-0.

**III. ENERGY AND ENVIRONMENT LEGISLATION**

**A. H.R. 1068, Securing America's Critical Minerals Supply Act**

This legislation would amend the Department of Energy (DOE) Organization Act to require the Secretary of Energy to conduct an ongoing assessment of the nation's supply

of critical energy resources, the vulnerability of the critical energy resource supply chain, and the criticality of critical energy resources in the development of energy technologies. It would also direct the Secretary to strengthen critical energy resource supply chains by diversifying sourcing and increasing domestic production, refining, and processing of resources. Under this legislation, the term “critical energy resource” means any energy resource that is essential to the energy sector and energy systems of the United States and the supply chain of which is vulnerable to disruption. (Rep. Bucshon introduced H.R. 1068.)

On Tuesday, February 28, the Subcommittee on Energy, Climate, and Grid Security forwarded the bill to the full committee, without amendment, by a roll call vote of 15-8.

**B. H.R. 1121, Protecting American Energy Production Act**

This legislation would prohibit a moratorium on the use of hydraulic fracturing unless such moratorium is authorized by an Act of Congress. The legislation also establishes the sense of Congress that States should maintain primacy for the regulation of hydraulic fracturing for oil and natural gas production on state and private lands. (Rep. Duncan introduced H.R. 1121.)

On Tuesday, February 28, the Subcommittee on Energy, Climate, and Grid Security forwarded the bill to the full committee, without amendment, by a roll call vote of 16-8.

**C. H.R. 1085, Researching Efficient Federal Improvements for Necessary Energy Refining (REFINER) Act**

This legislation would require the Secretary of Energy to direct the National Petroleum Council to issue a report examining the importance of petrochemical refineries to energy security. The report must also contain an analysis of the capacity of such refineries and opportunities to expand capacity, as well as analyze risks to refineries. (Rep. Latta introduced H.R. 1085.)

On Tuesday, February 28, the Subcommittee on Energy, Climate, and Grid Security forwarded the bill to the full committee, without amendment, by a bipartisan roll call vote of 17-11.

**D. H.R. 1058, Promoting Cross-border Energy Infrastructure Act**

This legislation would establish a more uniform, transparent, and modern process to authorize the construction, connection, operation, and maintenance of international border-crossing facilities for the import and export of oil and natural gas and the transmission of electricity. The legislation would replace the existing Presidential Permit process that has been established through Executive Order with a statutorily directed process. Under the legislation, the Federal Energy Regulatory Commission (FERC) would be authorized to review applications for cross-border oil and natural gas pipelines, and DOE would be authorized to review applications for cross-border electric transmission facilities. Substantially similar legislation passed the House in the 115th Congress with a bipartisan vote. (Rep. Armstrong introduced H.R. 1058.)

On Tuesday, February 28, the Subcommittee on Energy, Climate, and Grid Security forwarded the bill to the full committee, as amended, by a roll call vote of 17-10. The Subcommittee adopted an amendment offered by Rep. Walberg. The amendment ensures the President cannot revoke a previously issued Presidential Permit for a border-crossing facility.

**E. H.Con.Res. 14, a resolution expressing disapproval of the revocation by President Biden of the Presidential permit for the Keystone XL pipeline.**

This resolution expresses disapproval of President Biden’s revocation of the Presidential permit for the Keystone XL pipeline. (Rep. Lesko introduced H.Con.Res. 14.)

On Tuesday, February 28, the Subcommittee on Energy, Climate, and Grid Security forwarded the bill to the full committee, without amendment, by a roll call vote of 15-11.

**F. H.Con.Res. 17, a resolution expressing the sense of Congress that the Federal Government should not impose any restrictions on the export of crude oil or other petroleum products.**

This resolution would express the sense of the Congress that the Federal government should not impose any restrictions on the export of crude oil or other petroleum products. (Rep. Guthrie introduced H.Con.Res. 17.)

On Tuesday, February 28, the Subcommittee on Energy, Climate, and Grid Security forwarded the bill to the full committee, without amendment, by a roll call vote of 14-10.

**G. H.R. 1130, Unlocking Our Domestic LNG Potential Act**

This legislation would amend the Natural Gas Act (NGA) to repeal all restrictions on the import and export of natural gas. Under current law, the NGA prohibits the import or export of natural gas, including liquefied natural gas (LNG), without completing a lengthy approval process conducted by DOE. The legislation would align the NGA with the existing national policy on the import and export of other fossil fuels, including crude oil and petroleum products. (Rep. Johnson introduced H.R. 1130.)

On Tuesday, February 28, the Subcommittee on Energy, Climate, and Grid Security forwarded the bill to the full committee, as amended, by a roll call vote of 16-9. The subcommittee adopted an amendment offered by Mr. Johnson. The amendment clarifies that the term “Commission” means FERC and that FERC shall deem imports and exports of natural gas as consistent with the public interest.

**H. H.R. 1115, Promoting Interagency Coordination for Review of Natural Gas Pipelines Act**

This legislation would improve coordination among Federal and State agencies reviewing applications for the construction of interstate natural gas pipelines. The legislation would strengthen FERC’s lead agency role under the NGA by requiring schedules, concurrent reviews, and provisions to resolve disputes among permitting agencies. Substantially similar legislation passed the House in the 115th Congress with a bipartisan vote. (Rep. Burgess introduced H.R. 1115.)

On Tuesday, February 28, the Subcommittee on Energy, Climate, and Grid Security forwarded the bill to the full committee, as amended, by a roll call vote of 13-8. The Subcommittee adopted an amendment offered by Rep. Balderson. The amendment establishes timelines for FERC to identify, invite, and designate participating agencies in the NEPA review process.

**I. H.R. 1070, a bill to amend the Solid Waste Disposal Act (SWDA) to treat the owner or operator of a critical energy resource facility as having been issued an interim permit for the treatment, storage, and disposal, of hazardous waste, and for other purposes.**

This legislation, which was included in Title VI of H.R. 8981 of the 117th Congress, is patterned after a previous SWDA practice. It would address delays for SWDA-regulated waste permitting that is a condition of operation, but only for facilities that deal with critical energy resources. Specifically, the permitting involved would relate to on-site storage of more than 90 days, on-site waste treatment, or on-site waste disposal. The legislation would provide a facility, that files a Part A permit application, “interim status” until EPA or the State requires the facility to submit its Part B permit application for a long-term permit. (Rep. Carter introduced H.R. 1070.)

On Tuesday, February 28, the Subcommittee on Environment, Manufacturing, and Critical Materials forwarded the bill to the full committee, as amended, by a roll call vote of 13-6. The subcommittee adopted an amendment made by Mr. Carter. The amendment made a change to align the definition of critical energy resource with the term’s definition in H.R. 1068, Securing America’s Critical Minerals Supply Act.

**J. H.R. 1131, a bill to require the Administrator of the Environmental Protection Agency to authorize the use of flexible air permitting with respect to certain critical energy resource facilities, and for other purposes.**

This legislation would authorize EPA to issue flexible air permits and facilitate flexible, market-responsive operations for critical energy resource facilities. Flexible air permitting is a procedure that has been promoted by EPA to allow industrial facilities to obtain advance approval for changes to an emissions source without requiring the change to be reviewed and approved individually. Flexible air permitting ensures equal or greater environmental protection than conventional air permits. (Rep. Joyce introduced H.R. 1131.)

On Tuesday, February 28, the Subcommittee on Environment, Manufacturing, and Critical Materials forwarded the bill to the full committee, without amendment, by a roll call vote of 13-6.

**K. H.R. 1140, a bill to authorize the Administrator of the Environmental Protection Agency to waive application of certain requirements with respect to processing and refining a critical energy resource at a critical energy resource facility, and for other purposes.**

This legislation would authorize the EPA Administrator, under certain conditions, to waive temporarily any Clean Air Act (CAA) or Solid Waste Disposal Act requirement the Administrator determines is necessary to allow for the processing or refining of a critical energy resource to meet national security or energy security needs and to serve the public interest. The introduced bill includes new language that establishes requirements, timeframes, and a public interest protection by which the Administrator must act to avoid or minimize any adverse environmental impacts of a temporary waiver. (Rep. Pence introduced H.R. 1140.)

On Tuesday, February 28, the Subcommittee on Environment, Manufacturing, and Critical Materials forwarded the bill to the full committee, without amendment, by a roll call vote of 13-6.

**L. H.R. 1158, the Elimination of Future Technology Delays Act.**

This legislation would address repeated, documented delays with EPA reviewing and making legally mandated, timely determinations of pre-manufacturing notices for new critical energy resources and new uses of existing critical energy resources. The legislation would prevent EPA from withholding judgment on a notice and preventing commercialization – without justification – of a substance beyond the Toxic Substances Control Act’s (TSCA’s) statutory deadlines. This legislation would also prevent EPA from proactively encouraging manufacturers to exercise their right to suspend or end the legal clock on EPA action if EPA has not made an initial review of the new critical energy resource and communicated the noted risks to the applicant. Finally, this legislation would require EPA to consider economic, societal, and environmental costs and benefits when determining whether an “unreasonable risk” exists from the manufacturing, processing, commercial transportation, use or disposal of the critical energy resource. (Rep. Curtis introduced H.R. 1158.)

On Tuesday, February 28, the Subcommittee on Environment, Manufacturing, and Critical Materials forwarded the bill to the full committee, without amendment, by a roll call vote of 13-6.

**M. H.R. 1141, Natural Gas Tax Repeal Act.**

This legislation would repeal the natural gas tax contained in Sec. 136 of the CAA. The natural gas tax was established through amendments to the CAA contained in the Inflation Reduction Act (IRA), which was signed into law on August 16, 2022. Sec. 136 of the CAA authorizes the EPA to impose or collect a “charge on methane emissions,” also referred to as a tax on natural gas. H.R. 1141 also would rescind the unobligated balance of any amounts made available under Sec. 136. The IRA authorized and appropriated over \$1.5 billion under Sec. 136 of the CAA. (Rep. Pfluger introduced H.R. 1141.)

On Tuesday, February 28, the Subcommittee on Environment, Manufacturing, and Critical Materials forwarded the bill to the full committee, without amendment, by a roll call vote of 13-7.

**N. H.R. 1023, a bill to repeal section 134 of the Clean Air Act, relating to the greenhouse gas reduction fund.**

This legislation would repeal the program established under section 134 of the CAA and would rescind any unobligated balance of any funds made available under this section. Section 60103 of P.L. 117-169, the IRA, added this new section to the CAA to establish a Greenhouse Gas Reduction Fund and appropriated \$27 billion for EPA to award grants under the program until September 2024. (Rep. Palmer introduced H.R. 1023.)

On Tuesday, February 28, the Subcommittee on Environment, Manufacturing, and Critical Materials forwarded the bill to the full committee, without amendment, by a roll call vote of 11-6.

**O. H.R. 1155, Keeping America's Refineries Act.**

This legislation responds to a regulatory proposal in the Biden administration's Risk Management Rule (RMP) expansion (proposed on August 18, 2022). The regulatory proposal would make petroleum refineries using hydrofluoric acid alkylation units conduct technology and alternatives analyses of their existing plant's chemical usage and manufacturing practices to identify changes that could be made. This bill would prevent this operations assessment requirement from applying to refineries with active construction or operating permits. A new refinery or refinery without its permits could choose to follow the RMP assessment requirement (if finalized) or demonstrate it conforms or will conform to American Petroleum Institute Recommended Practice 751. Of note, section 12(d) of the National Technology Transfer Act of 1995, requires the Federal government to defer to industry consensus standards when those standards intersect with agency goals. (Rep. Crenshaw introduced H.R. 1155.)

On Tuesday, February 28, the Subcommittee on Environment, Manufacturing, and Critical Materials forwarded the bill to the full committee, without amendment, by a roll call vote of 10-6.

#### **IV. STAFF CONTACTS**

If you have any questions regarding the Energy and Environment Legislation, please contact Mary Martin of the Committee Staff. If you have any questions regarding the Innovation, Data, and Commerce Legislation, please contact Tim Kurth of the Committee Staff. Committee Staff may be contacted at (202) 225-3641.